

EX PARTE OR LATE FILED

April 7, 1999

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

4/08/99  
APR 10 1999

Re: MM Docket No. 98-203 and CS Docket No. 98-120 ✓  
Ex Parte Notice

Dear Ms. Roman Salas:

The Association of America's Public Television Stations ("APTS") hereby notifies the Commission of the following ex parte meeting in the above-captioned proceedings on ancillary and supplementary use of digital spectrum and digital must carry. The meeting occurred on April 6, 1999, and was attended by Lonna Thompson and Marilyn Mohrman-Gillis, APTS. We met with the following persons:

Susan Fox, Senior Legal Advisor to Chairman William Kennard

APTS highlighted the position stated in their comments and reply comments in response to the Commission's notice in the above-captioned proceedings as summarized in the attached handouts.

Should any questions arise concerning this meeting, please contact the undersigned.

Respectfully submitted,

Marilyn Mohrman-Gillis  
Marilyn Mohrman-Gillis  
Vice President, Policy and Legal Affairs  
Association of America's Public Television Stations

cc: Chairman William E. Kennard

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## DIGITAL MUST CARRY

1. Public television stations will use their digital channels to expand and enhance noncommercial educational services.
  - Public television stations, in a systemwide strategic planning effort, identified a unique vision for use of digital channels to serve the public.
  - Public broadcasters are committed to using their digital channels to:
    - improve and expand early childhood services, including the Ready to Learn service;
    - integrate digital technology in K-12 education;
    - provide adult and workforce education and training;
    - expand availability of digital services to underserved citizens, e.g. physically challenged and non-English speaking people.
2. Digital cable carriage rules are essential to enable public television to reach its vision of providing noncommercial educational digital signals to the American public.
  - Cable systems are monopolies from which 67 percent of American viewers exclusively get their television service.
  - Cable companies have said that they will not carry public television's digital broadcasts during the transition unless forced to by the FCC.
  - Cable companies refused to carry public television stations' analog channels in the 1980s leading to the must-carry requirements in the Cable Act affirmed by the Supreme Court.
  - Cable companies have always had and continue to have economic incentives to prefer cable-owned or subsidized networks over broadcast networks.

Without digital cable carriage rules --

- the American public will be deprived of noncommercial educational digital services;
- public television will have difficulty obtaining funding for the digital transition; and
- the transition to digital will be severely disadvantaged.

## ANCILLARY AND SUPPLEMENTARY USE OF DIGITAL SPECTRUM

The position outlined below reflects the consensus recommendation of the APTS Legislative Advisory Group adopted by APTS Board of Trustees and incorporated into comments filed by APTS with the FCC on February 16, 1999 and reply comments filed on March 16, 1999.

1. We are asking the Commission to extend, in a digital environment, the same restrictions currently operating on public television in an analog environment:
  - The channel must be used "primarily" for a noncommercial, nonprofit, educational service (Section 73.621(a) of the Commission's rules).
  - Any ancillary and supplementary service provided by the station to generate revenue may not interfere with the station's provision of its public telecommunications service (Section 399B of the Communications Act).
2. As long as stations meet these tests, they should be permitted to provide ancillary and supplementary services to generate revenue.
  - Public television stations traditionally operate with a variety of funding sources from federal, state and private sources.
  - Even with federal funding for the digital transition, stations must have the ability to use excess capacity to generate revenue to support expanded and enhanced digital services on an ongoing basis.
3. The Commission need not impose further restrictions on public television stations' use of their digital channel at this time.
  - Stations have external constraints that will direct the use of their channels.
    - Stations are governed by local governing boards and state law.